

Interim Program for Pepacton Reservoir Spill Reduction

On April 21, 2004, the Parties to the 1954 U.S. Supreme Court Decree (Decree Parties) approved an interim program for managing releases from the New York City Delaware Basin reservoirs. That interim program was embodied in Delaware River Basin Commission (DRBC) Resolution No. 2004-3 Docket No. D-77-20 (Revision 7). In approving that resolution, the Decree Parties committed to continuing discussions to develop and implement by May 31, 2007 a long-term flexible program to manage releases from the City Delaware Basin reservoirs to better address fisheries in the tailwaters below those reservoirs; the Decree Parties agreed that implementation of such a program required consideration of other related issues.

On several occasions in the past, the Decree Parties have implemented temporary programs to manage spills from Pepacton Reservoir during periods of unusually high storage, combined with significant snowpack or exceptionally wet hydrologic conditions, to reduce the potential volume of water spilled from Pepacton Reservoir during flood conditions.

The Decree Parties agree that reduction of Pepacton Reservoir spills during flood events is a related issue that should be considered in the development of the long-term flexible program. The Decree Parties also agree that reduction of Pepacton Reservoir spills should not be delayed until final approval of the long-term flexible program occurs. Therefore the Decree Parties hereby agree to implement an interim spill reduction program for Pepacton Reservoir that will expire on March 31, 2007.

During hydrological conditions resulting in full or near-full storage in Pepacton Reservoir individually and overall in the New York City (NYC) Delaware Basin Reservoirs, the interim spill reduction program described below will be implemented to reduce the volume of water spilled from Pepacton Reservoir. The program will attempt to manage a void in Pepacton Reservoir, based on snowpack in the reservoir's watershed, through supplemental releases above normal conservation rates from the East Delaware Release Chamber and maintain that void during the period November 1 through March 31 each water year. This interim program is not part of any regular release program and does not establish a precedent for any future releases or actions.

Although the total volume of water spilled from Pepacton Reservoir may be reduced by this interim program, it is unlikely that peak flows downstream will be significantly reduced. Pepacton Reservoir provides substantial attenuation of peak flows downstream even when the reservoir is spilling. Pepacton Reservoir was not designed as a flood control reservoir and does not contain release works capable of releasing water at rates necessary for effective flood management operation; consequently, the Decree Parties strongly urge communities downstream of the reservoir to take all

necessary and prudent actions to improve flood preparedness and awareness of flood potential.

Interim Pepacton Reservoir Spill Reduction Program:

1. Upon approval of this agreement by the Decree Parties, the City of New York will implement an interim program to achieve limited reduction of Pepacton Reservoir storage through supplemental releases from the East Delaware Release Chamber.
2. During the period November 1 to March 31 of each water year, whenever a continuous snowpack monitoring program acceptable to the Decree Parties is in effect, supplemental releases will be made as necessary to maintain to the extent practicable a void in Pepacton Reservoir not to exceed fifty percent (50%) of the water equivalent of the watershed snowpack above Pepacton Reservoir.
3. The recommended rate of the supplemental release shall be established daily by NYC in consultation with the Delaware River Master. Releases above the normal conservation rate will be accounted for as special releases and be considered neither River Master directed releases nor conservation releases in accordance with DRBC Docket D-77-20 (Revision 7).
4. The River Master will manage the recommended supplemental releases in such a manner as to conserve the waters of the Delaware Basin in accordance with the following guidance:

The flood stage for the East Branch Delaware River at Fishs Eddy is 13 feet. Accordingly, supplemental releases will not be made when the river stage for the East Branch Delaware River at Fishs Eddy is above 11 feet, or is forecast to be above 11 feet within 48 hours of a planned supplemental release from Pepacton Reservoir. This guidance may be modified at any time if additional information demonstrates that a lower cautionary stage should be used to limit the supplemental releases.
5. Supplemental releases may be suspended if ice conditions threaten flood prone areas of the East Branch.
6. Supplemental releases will be designed so that the combined discharge from the East Delaware Release Chamber and the Downsville Dam spillway does not exceed 2,000 cubic feet per second (cfs). All supplemental releases will be discontinued when the spillway discharge exceeds 2,000 cfs.
7. This interim program will expire on May 31, 2007 and may be terminated at any time at the request of any Decree Party or may be modified with the unanimous consent of the Decree Parties.

Consent to Action by The City of New York

Consent of the Parties to the U.S. Supreme Court Decree in New Jersey v. New York, 347 U.S. 995 (1954), approving the Pepacton Reservoir Interim Spill Reduction Program, November 1, 2005 through May 31, 2006, and November 1, 2006 through May 31, 2007, implemented by the City of New York.

State of New Jersey Date

State of New York Date

State of Delaware Date

Commonwealth of Pennsylvania Date

State of Delaware Date

City of New York Date